IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE JURISDICTION

CIVIL REVISION APPLICATION NO.134 OF 2005

Mukunddas Damodardas & ors .. Appellants

vs

Rupchand Hajarimal & ors .. Respts

Mr.Y.S.Jahagirdar,Sr.Counsel
with Mr.R.D.Suryavanshi for Appellants
Mr.Sandesh Patil for Respondent nos. 6,7 & 10

..

CORAM : B.H.MARLAPALLE, J

DATE: 26th September, 2005

P.C.

1. Heard Mr.Jahagirdar learned senior counsel with Mr. Survayanshi for the applicant-decree holders who had filed an application Exhibit 99 for issuance of possession warrant. By the impugned order dated 28th April 2005 they feel aggrieved because title of the order indicates that it has

been passed in both the applications at Exhibit 99 and Exhibit 95 but in the operative part of the order an inquiry has been ordered under Order 21 Rule 97 of the Code of Civil Procedure and this order is certainly below application at Exhibit 95 in R.D.No.72 of 1980.

2. Mr.Sandesh Patil learned counsel for the respondents on the other hand has pointed out that after the impugned order was passed on 28th April 2005 the present petitioners have moved Misc.Application No.217 of 2005 on or about 30th April 2005 before the executing court and the prayer for issuance of possession warrant has been reiterated.

3. Mr Jahagirdar the learned senior counsel on instructions states that it was not pointed out to the counsel that such an application has been filed and is presently pending.

4. As the prayer for re-issuance of possession warrant is under consideration in Misc. Application No.217 of 2005 this revision application need not be entertained. The same is

hereby rejected summarily and it is clarified that Misc. Application No.217 of 2005 shall be decided by the executing court on its own merits as expeditiously as possible and prererably within 8 weeks.

(B.H.Marlapalle, J)